

ESTTA Tracking number: **ESTTA365319**

Filing date: **08/26/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Fusion Brands International SRL
Granted to Date of previous extension	08/29/2010
Address	Durants Business Centre, Suite B Durants Christ Church, BB17097 BARBADOS
Attorney information	Arlana S. Cohen Cowan Liebowitz & Latman 1133 Avenue of the Americas New York, NY 10036 UNITED STATES asc@cll.com, eck@cll.com, trademark@cll.com Phone:212-790-9200

Applicant Information

Application No	77824056	Publication date	03/02/2010
Opposition Filing Date	08/26/2010	Opposition Period Ends	08/29/2010
Applicant	Martha Stewart Living Omnimedia, Inc. 601 West 26th Street, 10th Floor New York, NY 100011101 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Detergents for household use; cleaning preparations; laundry detergents; stain removers; fabric softeners; dishwasher detergents; dish washing detergents; hand soaps; all-purpose cleaners; glass and surface cleaners; carpet cleaners; wood floor cleaners; toilet bowl detergents; bathroom cleaners; bathroom tub and tile cleaners; non-chlorine bleach for household use; disposable wipes impregnated with cleansing compounds for household use; cleaning preparations, namely, furniture polish
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Applicant Information

Application No	77824063	Publication date	03/02/2010
Opposition Filing Date	08/26/2010	Opposition Period Ends	
Applicant	Martha Stewart Living Omnimedia, Inc. 601 West 26th Street, 10th Floor New York, NY 100011101 UNITED STATES		

Goods/Services Affected by Opposition

Class 021.

All goods and services in the class are opposed, namely: Brooms; mops; cleaning sponges; buckets; cleaning brushes for household use; dusters; dustpans; pails; household cleaning gloves; cleaning, dusting and polishing cloths

Grounds for Opposition

Other	See attached pleading.
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Attachments	MARTHA STEWART CLEAN Notice of Opposition.pdf (5 pages)(19096 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Elise Kasell/
Name	Elise Kasell
Date	08/26/2010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter of Application Serial Nos. 77/824,056 and 77/824,063

Published in the Official Gazette of March 2, 2010

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FUSION BRANDS INTERNATIONAL SRL,	:	
Opposer,	:	
v.	:	OPPOSITION NO.
MARTHA STEWART LIVING OMNIMEDIA,	:	
INC.,	:	
Applicant.	:	
	X	

CONSOLIDATED NOTICE OF OPPOSITION

Opposer, Fusion Brands International SRL, a Barbados company, having a business address of Durants Business Centre, Suite B Durants, Christ Church BB17097, Barbados (hereinafter referred to as Opposer”) believes that it will be damaged by and hereby opposes the registration of Applicant’s mark MARTHA STEWART CLEAN (“Applicant’s Mark”). The grounds for the consolidated opposition are as follows:

1. Applicant, Martha Stewart Living Omnimedia, Inc., (hereinafter “Applicant”) has filed applications for Applicant’s Mark on an intent-to-use basis both in International Class 3 for “Detergents for household use; cleaning preparations; laundry detergents; stain removers; fabric softeners; dishwasher detergents; dish washing detergents; hand soaps; all-purpose cleaners;

glass and surface cleaners; carpet cleaners; wood floor cleaners; toilet bowl detergents; bathroom cleaners; bathroom tub and tile cleaners; non-chlorine bleach for household use; disposable wipes impregnated with cleansing compounds for household use; cleaning preparations, namely, furniture polish” and in International Class 21 for “Brooms; mops; cleaning sponges; buckets; cleaning brushes for household use; dusters; dustpans; pails; household cleaning gloves; cleaning, dusting and polishing cloth” as shown in 77/824,056 and 77/824,063 respectively (together, the “Applications”).

2. Opposer is, and has for many years been, engaged in the business of designing, developing and marketing its highly successful CLEAN products, including but not limited to personal fragrances, home fragrances, scented candles and skin care products, all sold under its trade name and trademark CLEAN (“Opposer’s Common Law Trademarks”)

3. Opposer owns registrations for the following CLEAN trademarks (“Opposer’s Trademark Registrations”):

MARK	REG. /APP. NO.	GOODS/SERVICES
CLEAN	3,394,365	Class 35: Online retail store services featuring beauty products
CLEAN (Stylized)	3,706,936	Class 4: Scented candles
CLEAN (Stylized) (Supp. Register)	3,572,610	Class 3: Perfume oil, eau de perfume, eau de toilette and body lotion

Opposer’s Common Law Trademarks and Opposer’s Trademark Registrations are collectively referred to as “Opposer’s Trademarks.”

4. Opposer has spent millions of dollars advertising Opposer’s Trademarks and the goods sold thereunder.

5. By virtue of extensive use and advertising in commerce, Opposer has built up highly valuable goodwill in Opposer's Trademarks, and the said goodwill has become closely and uniquely associated with Opposer.

6. Opposer's first use and/or priority dates for Opposer's Trademarks predate Applicant's constructive priority date of September 10, 2009.

7. The proposed goods of Applicant are related to the goods and services covered by and offered in connection with Opposer's Trademarks.

8. Applicant's Mark consists of the combination of the name of a living individual, MARTHA STEWART, with the word CLEAN. Purchasers and potential purchasers, on seeing Applicant's Mark used in connection with Applicant's proposed goods are likely to believe, in error that such goods are offered in association or affiliation with or under license from Opposer. Upon information and belief, consumers will perceive the primary component of Applicant's Mark to be the word CLEAN apart from the unitary mark as a whole.

9. Applicant's Mark so resembles Opposer's Trademarks as to be likely, as applied to Applicant's goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant's goods have their origin or are associated in some way with Opposer. Opposer would thereby be injured by the grant to Applicant of trademark registrations for Applicant's Mark.

10. WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the consolidated opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Arlana S. Cohen, Sujata Chaudhri and Elise Kasell (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

The filing fee of US\$600 is enclosed with this Consolidated Notice of Opposition and any additional fees or deficiencies deemed to be due and owing in connection with this opposition may be charged to Deposit Account No. 03-3415 and any overpayment may be credited thereto.

Please address all communications to Arlana S. Cohen, Esq. at the address listed below.

Date: New York, New York
August 26, 2010

Respectfully submitted,

FUSION BRANDS INTERNATIONAL SRL

By: /Elise Kasell/
Arlana S. Cohen, Esq.
Sujata Chaudhri, Esq.
Elise Kasell, Esq.
Cowan, Liebowitz & Latman, P.C.
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New York, NY 10036
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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Consolidated Notice of Opposition to be sent via first class, postage paid mail to Applicant's Correspondent of Record, Alexandra Nicholson, Esq., Davis Wright Tremaine LLP, 1633 Broadway, 27th Floor, New York, NY 10019-6708 on August 26, 2010.

/Elise Kasell/

Elise Kasell